Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 32. This sheet, which includes Fig.32, replaces the original sheet including Fig.32.

Attachment: One Replacement Sheet

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

REMARKS

Claims 1 to 48 were pending in the application at the time of examination. The rejection objected to the drawings, the specification, and Claims 1 to 7, 12 to 18, 23 to 29, 34 to 40, 46 and 47. Claims 1, 2, 4 to 6, 8, 9, 11 to 13, 15 to 17, 19, 20, 22 to 24, 26 to 28, 30, 31, 33 to 35, 37 to 39, 41, 42 and 44 to 48 stand rejected as anticipated. Claims 3, 7, 10, 11, 14, 18, 21, 23, 25, 29, 32, 36, 40, and 43 stand rejected as obvious.

Objections to the Drawings

Figure 31 was objected to because reference numerals 3100 was not mentioned in the description. Applicant has amended paragraph [0106] to include a reference to "dispatcher 3100" as shown in Fig. 31. Accordingly, the amendment to the specification obtains correspondence between Figure 31 and the specification and so does not constitute new matter. Applicant respectfully requests reconsideration and withdrawal of the objection to Fig. 31.

With respect to the misspelling of "stream" in Fig. 32, Applicant has provided a replacement sheet with the correction noted by the Examiner. Applicant respectfully requests reconsideration and withdrawal of the objection to Fig. 32 and entry of the replacement sheet with Fig. 32.

Objections to the Claims

Claims 1 to 7, 12 to 18, 23 to 29, 34 to 40, 46, and 47 stand objected to for informalities. Applicant has amended Claims 1, 12, 23, and 34 to recite "an opcode value of said application program instruction," which obtains consistency within each of these claims. Claims 46 and 47 are amended as suggested by the Examiner. Applicant respectfully

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

requests reconsideration and withdrawal of the objection to each of Claims 1 to 7, 12 to 18, 23 to 29, 34 to 40, 46, and 47.

The amendments to the specification and claims correct informalities and so do not require consideration of new issues or a new search. Similarly, the entry of the replacement sheet simply corrects a spelling error and so does not require consideration of new issues or a new search. The amendments are being made at this time in response to issues that were first raised in the final office action. Further, in view of the following remarks, Applicant respectfully submits that the amendments place the application in condition for allowance and so request entry under Rule 116. If the Examiner should disagree, entry of this paper is respectfully requested so as to narrow the issues for appeal.

§ 102 Rejections

Claims 1, 2, 4 to 6, 8, 9, 11 to 13, 15 to 17, 19, 20, 22 to 24, 26 to 28, 30, 31, 33 to 35, 37 to 39, 41, 42 and 44 to 48 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,334,189 hereinafter referred to as Granger.

The rejection stated in part:

> selecting an instruction dispatch table based at least in part on said current instruction counter value *(see Column 17: 22-30, "As the sequence of tokens for a given line is read, the token reader matches the opcode to the corresponding instruction in the internal data structure to determine the instruction format and sign information. The token reader then parses the tokens, and maps the tokens (using the mapping macros) into the* 32-bit pseudocode *instruction. The pseudocode instruction is then written (in unencrypted form) to an instruction list which eventually becomes part of the ECODE data block."*

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

Applicant respectfully traverses the anticipation rejection of each of Claims 1, 8, 12, 19, 23, 30, 34, 41, 45

and 48. The rationale for continuing this portion of the rejection was:

> . . . A mapping macro is interpreted as a table under the broadest reasonable treatment, since both a mapping. macro and a table define relationships between various entities.
>
> Examiner also disagrees with Applicant's assertion that there is no teaching that a mapping macro is selected based upon a current value of an instruction counter. Note that the tokens used to select the mapping macro are derived from the instruction *(see Column 16: 58-62," ... ifthe EASM detects that the line includes an instruction, the EASM's line parser generates a sequence of numeric tokens (3 for most instructions)* ... ").

With all due respect, this rationale simply ignores how table and macro are used by Granger as well as how these terms are interpreted by those of skill in the art and uses an expansive unsupported Examiner definition, i.e., a table is simply reduced to a gist as anything that "define(s) relationships between various entities. Further, this rationale mischaracterizes the express teachings of Granger and mischaracterizes "an instruction counter" as that term would be interpreted by one of skill in the art.

As an example, Claim 1 recites in part:

> selecting an instruction dispatch table based at least on said current instruction counter value

and Claim 8 recites in part:

> during application program execution to determine the location of instruction implementation methods to be executed based at least on using a current instruction counter value to select a dispatch table in said plurality of dispatch tables for use with an application program instruction corresponding to said current instruction counter value

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

In each instance, a current value of an instruction counter is used in selecting a dispatch table that includes at least an instruction implementation method.

The MPEP puts bounds on the broadest reasonable interpretation for the recited claim elements. For example, as already pointed out,

> **CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**
>
> During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." (Emphasis Added.)

MPEP § 2111 8th Ed. Rev. 5, p 2100-37 (August 2006).

In addition, the MPEP specifies:

> The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.

MPEP § 2111 8th Ed. Rev. 5, p 2100-38 (August 2006).

These requirements are not permissive. Each states that the condition specified must be met. The interpretation used in the rationale for continuing the rejection is inconsistent with both of these requirements.

Further, with respect to claim interpretation, the MPEP also directs:

> This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification.

MPEP § 2111.01, I., 8th Ed. Rev. 5, p 2100-38 (August 2006).

The MPEP then further defines the plain meaning, e.g.,

> "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention,

MPEP § 2111.01, III., 8th Ed. Rev. 5, p 2100-39 (August 2006).

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

The rejection has ignored each of these requirements and uses simply a gist as noted above. In the rejection, Granger is one of skill in the art. Granger teaches that the term "macro" and the term "table" are not used interchangeably as asserted in the rejection. Rather, a macro is taught as being different from a table.

For example, Granger explicitly describes several different tables as well as how to make and use such tables. For example,

> FIG. 2 illustrates a process for generating a look-up **table** for use within an ESD simulator.
> FIGS. 3A and 3B illustrate respective processes for encrypting and decrypting the user data when a **table-based** ESD simulator is used on the decryption side. (Emphasis Added.)

Granger, Col. 3, lines 28 to 32.

> The term "user data" refers to data that is generated by an application (or a component thereof) based on the input of a user. User data may include, for example, a document generated by a word processing program, a configuration file generated by an operating system, a **matrix table** generated by a 3D animation program, or a portion of any such items. (Emphasis Added.)

Granger, Col. 4, lines 18 to 23.

> In one implementation, the Encryption Layer code which performs the encryption and decryption of user data is written in pseudocode. The pseudocode is preferably imbedded within the application code as an encrypted **data table**, together with data constants and temporary variables that are used by the code. During execution of the application, a pseudocode interpreter (also imbedded within the application) decrypts and processes the pseudocode line-by-line to perform the underlying copy protection functions. Because no disassemblers, debuggers, or other development tools are available to pirates for analyzing the pseudocode, pirates cannot analyze the important copy protection functions using their usual techniques. (Emphasis Added.)

Granger, Col. 7, lines 1 to 13.

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

At no time does Granger equate a table with a macro. Further, Granger expressly taught that macros are part of a text file.

> FIG. 8 is a flow chart which illustrates the basic operation of the EASM. As illustrated by the flow chart, the EASM operates generally by reading one line of the text file (block 100), parsing the line (block 102), processing the parsed line to add data to a set of lists (header, data and code) that eventually become the ECODE data block (blocks 104-112), and then reading the next line of the file (block 100). After all of the lines of the text file have been processed, the EASM merges and encrypts the header, data and code lists (blocks 118 and 120) to generate the ECODE data block 56.
>
> Each line of the text file consists of either a macro, an instruction, or data. The macros are used to generate the header 66, and are thus used by the developer to specify such things as the number of arguments, the initial program counter setting, and the key value for encrypting the data and instructions. As depicted by block 104, when one of the four built-in macros of the EASM is encountered, the EASM updates a header list and then loops back to read the next line.
>
> As depicted by blocks 108 and 110, if the EASM detects that the line includes an instruction, the EASM's line parser generates a sequence of numeric tokens (3 for most instructions), each of which represents an element (label, instruction type, operand, etc.) of the instruction line. The tokens are then used to build a pseudocode instruction. Each pseudocode instruction consists of 32 bits. The pseudocode instructions fall into five instruction format categories. For each such category, the EASM has a corresponding internal mapping macro that specifies how the opcode, operand(s) and any other bit fields are to be arranged within the 32-bit instruction value.

Granger, Col. 16, line 38 to Col. 17, line 2.

Thus, Granger describes that a macro is used to generate a header, and also the mapping macros are used to format information for a 32-bit pseudocode instruction. Also, Granger provides specific examples of other macros. See for example, Granger, Col. 31, line 65 to Col. 32, line 2.

Macro, as it is used by Granger as well as those of skill the art, is a notation that upon

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

interpretation/execution causes a sequence of instructions to be performed that accomplish a result—generate a header or provide a format for a pseudo code instruction in Granger. There simply is no basis for interpreting a macro as a table, when Granger, as one of skill in the art, clearly and unambiguously teaches that the two are different entities and perform different functions.

If a definition is going to be used that is directly contradicted by the reference that establishes the level of skill in the art, there must be some basis on the record that supports the contradiction. Otherwise, the interpretation used in the rationale for continuing the rejection goes against at least the above quoted requirements of the MPEP. Since the definition used is not based on anything of record, the MPEP requirements for claim interpretation have not been followed.

Further, the equating of token to an instruction counter is a further mischaracterization of the reference. As quoted above, the tokens are generated "if the EASM detects that the line includes an instruction, the EASM's line parser generates a sequence of numeric tokens." Thus, it is the instruction and not a value of any counter that determines what tokens are generated. Each of the tokens is associated with a portion of the instruction, "each of which represents an element (label, instruction type, operand, etc.) of the instruction line." The tokens are used to build a line of pseudocode that corresponds to the instruction.

An internal data structure and not the tokens define the mapping macro, i.e, one of the five instruction formats, that is used. "The internal data structure defines the instruction set of the EASM, and specifies which of the five instruction formats is to be used to encode the assembly language instruction into a 32-bit pseudocode instruction." Granger, Col. 17, lines 8 to 12.

Granger further describes "As the sequence of tokens for a given line is read, the token reader matches the

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

opcode to the corresponding instruction in the internal data structure to determine the instruction format and sign information." Granger, Col. 17, lines 22 to 25. Thus, it is the opcode value and not the tokens that are used to select mapping macro that defines the instruction format. The mapping macro is then used to map the tokens into the 32-bit pseudo-code instruction and not the other way around as stated in the rejection. The express use of an opcode fails to teach or suggest anything concerning a value of an instruction counter and rather teaches away from such a value.

Thus, the above rationale for maintaining the rejection not only uses improper definitions, but also mischaracterizes how the mapping macro is selected. This is actually all immaterial, because the tokens and the mapping macros fail to teach or suggest anything concerning an instruction counter value.

Again, Granger directly contradicts the interpretation provided in the rejeciton by teaching loop-counters and for example, "A program counter (PC) of the SPEC references the line number (within the ECODE data block) of the instruction being processed." Granger, Col. 18, lines 3 to 5. The rejection has failed to cite any teaching of this program counter being used as recited in these claims. The tokens are not generated based on the value of the program counter, but instead based on the instruction. Moreover, Granger makes clear that a counter is different from a token.

The standard for an anticipation rejection is not whether terms and definitions in a reference can be redefined and reconfigured to read on the invention. The MPEP's summary of the court decisions on anticipation indicates that at least two showings are mandatory for an anticipation rejection, i.e.,

> TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM
>
> "A claim is anticipated only if each and every element as set forth in the claim is found, either

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

> expressly or inherently described, in a single prior art reference.". . . . < "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. (Emphasis Added.)

MPEP § 2131, 8th Ed., Rev. 5, p. 2100-67 (August 2006).

As noted above, the rejection fails to comply with these requirements. Granger fails to show the invention in as complete detail as contained in the claim and simply fails to teach the claim elements. Erroneous redefinitions of terms that contradict the express teachings of the reference are not a showing in the reference. Thus, the reference cannot teach the elements arranged as required by the claim. Granger fails for multiple reasons to teach the invention in the same level of detail as recited in each of these claims. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 1, 8, 12, 19, 23, 30, 34, 41, 45 and 48.

Applicant respectfully traverses the anticipation rejection of each of Claims 2, 4 to 6, 9, 11, 13, 15 to 17, 20, 22, 24, 26 to 28, 31, 33, 35, 37 to 39, 42, 44, 46 and 47. Each of these claims distinguishes over Granger at least for the same reasons as the independent claim form which it depends. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 2, 4 to 6, 9, 11, 13, 15 to 17, 20, 22, 24, 26 to 28, 31, 33, 35, 37 to 39, 42, 44, 46 and 47.

Claims 3, 7, 10, 11, 14, 18, 21, 23, 25, 29, 32, 36, 40, and 43 stand rejected under 35 U.S.C. 103(a). Assuming that the combination of references is correct for each of these claims, the additional material relied upon from the secondary reference does not correct the deficiencies of Granger with respect to the independent claims from which these claims depend. Therefore, each of Claims 3, 7, 10, 11, 14, 18, 21, 23, 25, 29, 32, 36, 40, and 43 distinguish

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0880
Fax (831) 655-0888

over the combination of references for at least the same reasons as the independent claims. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 3, 7, 10, 11, 14, 18, 21, 23, 25, 29, 32, 36, 40, and 43.

Claims 1 to 48 remain in the application. Claims 1, 12, 23, 34, 46 and 47 have been amended. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

Respectfully submitted,

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. 1-571-273-8300, on August 29, 2007.

Amanda Ream — August 29, 2007
Amanda Ream — Date of Signature

Forrest Gunnison
Attorney for Applicant(s)
Reg. No. 32,899

GUNNISON, McKAY & HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0888
Fax (831) 655-0888